

CHILD SUPPORT ENFORCEMENT AGENCY
P.O. Box 7190
Bismarck, ND 58507-7190

IV-D INFORMATIONAL COMMUNICATION
IC-CO-00-07
September 19, 2000

TO: Administrators, Regional Child Support Enforcement Units

RE: Child Support Guidelines, N.D. Admin. Code § 75-02-04.1-08.1: Extended Visitation--Applicability Determined by Visitation Schedule in Court Order

A question has arisen regarding the applicability of the extended visitation adjustment when calculating child support obligations pursuant to North Dakota's child support guidelines. The following information regarding N.D. Admin. Code § 75-02-04.1-08.1 is intended to provide an answer to that question.

Question: Does the applicability of the adjustment for extended visitation depend on whether or how much visitation is actually exercised?

Answer: No. Pursuant to N.D. Admin. Code § 75-02-04.1-08.1(1), extended visitation is defined as "visitation between an obligor and a child living with an obligee **scheduled by court order** to exceed sixty of ninety consecutive nights or an annual total of one hundred sixty-four nights." (emphasis added) In addition, N.D. Admin. Code § 75-02-04.1-08.1(2) states that if a court order provides for extended visitation, the child support obligation must be determined with regard to the adjustment for extended visitation. So long as the visitation schedule in the court order meets the definition of extended visitation, the obligor is entitled to the extended visitation adjustment regardless of whether or how much visitation is actually exercised. Conversely, if the visitation schedule in the court order does not meet the definition of extended visitation, the obligor is not entitled to the extended visitation adjustment regardless of how much visitation is actually exercised. If the court order does not address visitation (i.e. there is no visitation schedule), the obligor is not entitled to the extended visitation adjustment regardless of how much visitation is actually exercised.

By tying the applicability of the extended visitation adjustment to the court-ordered visitation schedule, disputes about whether visitation was or was not exercised and the amount of visitation that was or was not exercised are reduced. If the court-ordered visitation schedule is not reflective of the actual visitation exercised, the appropriate solution is to seek an amendment to the visitation schedule.

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Reference: Summary of Comments Received in Regard to Proposed
Amendments to N.D. Admin. Code ch. 75-02-04.1, Child Support Guidelines,
dated June 14, 1999

ATTACHMENTS

INQUIRIES TO:

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